



City of Seattle

Gregory J. Nickels, Mayor

Department of Design, Construction and Land Use

D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE**

Application Number: 2201422
Applicant Name: Paul Wozniak for Voicestream Wireless
Address of Proposal: 832 - 32nd Avenue

SUMMARY OF PROPOSED ACTION

Master Use Permit to establish use for future construction of a minor communication utility (Voicestream Wireless) consisting of six panel antennas (3-sector) attached to the facade of a church steeple. Project includes equipment cabinet to be located at the church basement.

The following approvals are required:

Administrative Conditional Use - to allow a minor communication utility in a Single Family Zone (SMC Section 23.57.010.C.1.a).

SEPA - Environmental Determination - Chapter 25.05, Seattle Municipal Code (SMC)

SEPA DETERMINATION: ☐ Exempt ☒ DNS ☐ MDNS ☐ EIS
 ☐ DNS with conditions
 ☐ DNS involving non-exempt grading or demolition or
 involving another agency with jurisdiction.

BACKGROUND INFORMATION

Site and Vicinity Description

The subject site is located at the southeast corner of 32nd Avenue and E. Marion Street in Seattle's Madrona neighborhood. The 10,000 sq. ft. property is developed with a church building that covers nearly the entire site. The church steeple, at 58.5 feet, is the tallest point and is located at the northwest corner of the structure.

The property is zoned Single Family Residential (SF 5000). The surrounding neighborhood is developed with single family residences and is also zoned SF 5000.

Proposal

The applicant proposes to establish the use for the installation of six panel antennas on the steeple of the Mardrona Presbyterian Church. Specifically, the antennas would be flush mounted to the parapets topping the steeple tower and then screened with a shield that would be painted and resemble the material of the existing siding. The maximum height of the antenna screen would be 53.8 feet. The equipment cabinet would be installed in the basement of the church.

Comments

The original application for this proposal was to obtain a Council Conditional Use permit. Ordinance 120928, effective November 1, 2002, established that a Minor Communications Utility would now be allowed subject to an Administrative Conditional Use. A revised notice of application reflecting this changed circumstance was published on January 30, 2003 with the comment period closing February 12, 2002. One comment, opposed to the proposal for health considerations, was received during the comment period.

ANALYSIS - ADMINISTRATIVE CONDITIONAL USE PERMIT

The establishment of a Minor Communication Utility may be permitted by Administrative Conditional Use approval when the proposal satisfies the criteria set forth in SMC 23.57.010.C.2 as follows:

- a. *The proposal shall not be significantly detrimental to the residential character of the surrounding residentially zoned area, and the facility and the location proposed shall be the least intrusive facility at the least intrusive location consistent with effectively providing service. In considering detrimental impacts and the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic, and the displacement of residential dwelling units.*

As proposed, the minor communications utility would not constitute a commercial intrusion that would be significantly detrimental to the residential character of the surrounding neighborhood. Given the existing development conditions of the site location; the church steeple location; the detailed screening proposed to seamlessly blend in with the existing facade; the height of the antennas lower than the highest point of the church steeple; and the location of the equipment cabinet in the church basement, the proposed minor communications utility would be minimally obtrusive and would not be detrimental to the residential streetscape character of the surrounding neighborhood.

- b. *The visual impacts that are addressed in section 23.57.016 shall be mitigated to the greatest extent practicable.*

The applicant has designed the size, shape and materials of the proposed utility to minimize negative visual impacts on adjacent or nearby residential areas to the greatest extent possible. The antennas would be screened by materials resembling the existing church tower's parapet facade. The height would be lower by five feet to the tallest point of the church steeple. The associated cabinet equipment would be located indoors and not visible from the street or surrounding neighborhood.

- c. *Within a Major Institution Overlay District, a Major Institution may locate a minor communication utility or an accessory communication device, either of which may be larger than permitted by the underlying zone, when:*
- i. *the antenna is at least one hundred feet (100') from a MIO boundary; and*
 - ii. *the antenna is substantially screened from the surrounding neighborhood's view.*

The proposed site is not located within a Major Institution Overlay; therefore, this provision is not applicable.

- d. *If the minor communication utility is proposed to exceed the permitted height of the zone, the applicant shall demonstrate the following: (i) The requested height is the minimum necessary for the effective functioning of the minor communication utility, and (ii) Construction of a network of minor communication utilities that consists of a greater number of smaller less obtrusive utilities is not technically feasible.*

The proposed minor communication utility would be located on an existing 58.5-foot tall church steeple and in the church's basement. The antennas would be mounted on the existing tower parapet fronting the steeple and would be 53.8 feet high, thus, exceeding the 30-foot height limit in a SF 5000 zone. However, mounting the antennas at this location would not cause view blockage and shadow impacts in the area because of the existing condition of the church steeple.

Due to the operational characteristics of the facility proposed, a clear line of site from the antennas in the system throughout the intended coverage area is necessary to ensure the quality of the transmission of the digital system. The strict application of the standards would preclude the applicant from providing wireless services for the intended coverage area, which includes the surrounding Madrona neighborhood. The site was chosen because its elevation and location are uniquely suited to serve the adjoining residential and commercial areas. No commercial properties were identified with sufficient elevation height to provide the coverage needed to meet the service objectives. The additional height above the zone development standard is the minimum required to place the structure on the existing church steeple to obtain sufficient coverage. The ground level alternative is technically unfeasible and would potentially face significant citizen opposition. According to the applicant, the literal interpretation and strict application of the Land Use Code would be that VoiceStream Wireless could not meet its federal mandate of its FCC license to provide high speed wireless internet access throughout the Seattle metropolitan area. This proposal site at this elevation is a vital link in the planned network for the Seattle Metropolitan area. Given these alternatives, the height limit extension is a minimal impact. Thus, this criterion is satisfied.

- e. *If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.*

The proposal is to install the minor communication utility at an existing facility.

- f. *If the proposed minor communication utility is for a personal wireless facility and it would be the third separate utility on the same lot, the applicant shall demonstrate that it meets the criteria contained in subsection 23.57.009 A, except for minor communication utilities located on a freestanding water tower or similar facility.*

The proposal is not subject to this criteria.

DECISION - ADMINISTRATIVE CONDITIONAL USE PERMIT

This application to install a minor communication utility in a residential zone, which exceeds the height limit of the underlying zone is **GRANTED**.

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant and dated May 23, 2002. Information in the checklist was supplemented by the other materials. The information in the checklist, supplemental information (including a letter from the Seattle-King County Department of Health), and the experience of the lead agency with the review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665) states, in part, "*where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation*" subject to some limitations. Thus, the mitigation that may be required pursuant to SEPA authority is limited. A discussion of likely adverse impacts and how they may be appropriately mitigated follows below.

Short-term Impacts

The following temporary construction-related impacts are expected: 1) decreased air quality due to increased dust and other suspended particulates from building activities; 2) increased noise and vibration from construction operations and equipment; 3) increased traffic and parking demand from construction personnel; 4) blockage of streets by construction vehicles/activities; 5) conflict with normal pedestrian movement adjacent to the site; and 6) consumption of renewable and non-renewable resources. Although not significant, the impacts are adverse and certain mitigation measures are appropriate as specified below.

City codes and/or ordinances apply to the proposal and will provide mitigation for some of the identified impacts. Specifically, these are: 1) Street Use Ordinance (watering streets to suppress dust, obstruction of the pedestrian right-of-way during construction, construction along the street right-of-way, and sidewalk repair); and 2) Building Code (construction measures in general). Compliance with these applicable codes and ordinances will be adequate to achieve sufficient mitigation and further mitigation by imposing specific conditions is not necessary for these impacts. The proposal is located within residential receptors that would be adversely impacted by construction noise. Therefore, additional discussion of noise impacts is warranted.

Construction Noise

The limitations of the Noise Ordinance (construction noise) are considered inadequate to mitigate the potential noise impacts associated with construction activities. The SEPA Policies at SMC 25.05.675 B allow the Director to limit the hours of construction to mitigate adverse noise impacts. Pursuant to this policy and because of the proximity of neighboring residential uses, the applicant will be required to limit excavation, foundation, and external construction work for this project to non-holiday weekdays between 7:30 a.m. and 6:00 p.m.

It is also recognized that there are quiet non-construction activities that can be done at any time such as, but not limited to, site security, surveillance, monitoring for weather protection, checking tarps, surveying, and walking on and around the site and structure. These types of activities are not considered construction and will not be limited by the conditions imposed on this Master Use Permit.

Other Short-Term Impacts

The other short-term impacts not noted here as mitigated by codes, ordinances or conditions (e.g., increased traffic during construction, additional parking demand generated by construction personnel and equipment, increased use of energy and natural resources) are not sufficiently adverse to warrant further mitigation or discussion.

Long-term Impacts

Long-term or use-related impacts are also anticipated, as a result of approval of this proposal including: increased traffic in the area and increased demand for parking due to maintenance of the facility; and increased demand for public services and utilities. These impacts are minor in scope and do not warrant additional conditioning pursuant to SEPA policies.

Electro-magnetic Radiation (EMR)

The City of Seattle, in conjunction with Seattle King County Department of Public Health, has determined that Personal Communication Systems (PCS) operate at frequencies far below the Maximum Permissible Exposure standards established by the Federal Communications Commission (FCC) and therefore, pose no threat to public health. Additionally, the FCC has pre-empted State and local governments from regulating personal wireless service facilities on the basis of environmental effects of radio frequency emissions. Warning signs at every point of access to the transmitting antenna shall be posted with information of the existence of radiofrequency radiation.

Summary

In conclusion, several effects on the environment would result from the proposed development. The conditions imposed at the end of this report are intended to mitigate specific impacts identified in the foregoing analysis, to control impacts not adequately regulated by codes or ordinances, per adopted City policies.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).
- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

CONDITIONS - ADMINISTRATIVE CONDITIONAL USE

None.

CONDITIONS – SEPA

During Construction

The following conditions to be enforced during construction shall be posted at the site in a location visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions shall be printed legibly on placards available from DCLU, shall be laminated with clear plastic or other weatherproofing material, and shall remain in place for the duration of the construction.

1. The applicant shall limit external construction work for this project to non-holiday weekdays between 7:30 a.m. and 6:00 p.m.

Signature: (signature of file) Date: May 26, 2003
Carol I. Proud, Senior Land Use Planner
Department of Design, Construction and Land Use
Land Use Services